

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SHAWN ERICK NAHKAHYEN-
CLEAR SAND,

Plaintiff,

vs.

DEPARTMENT OF HEALTH &
HUMAN SERVICES, DENNIS
CONNOLLY, Dr., In Their Individual
and Official Capacities; and THERESA
HANSEN, RN, In Their Individual and
Official Capacities;

Defendants.

8:17CV43

**MEMORANDUM
AND ORDER**

This matter is before the court on review of Plaintiff's Amended Complaint. ([Filing No. 9](#).) Plaintiff also renews his request for the appointment of counsel. ([Filing No. 10](#).)

The court granted Plaintiff an opportunity to file an amended complaint to correct several deficiencies in his Complaint so that he can state a claim upon which relief may be granted. (See [Filing No. 8](#).) Instead of correcting those deficiencies in his Amended Complaint, Plaintiff essentially repeats the allegations from his Complaint and, therefore, this action will be dismissed.

Further, the court cannot routinely appoint counsel in civil cases. In [Davis v. Scott](#), 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that "[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel." Trial courts have "broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence

of conflicting testimony, and the plaintiff's ability to investigate the facts and present his claim." *Id.* Having considered these factors, the request for the appointment of counsel will be denied.

IT IS THEREFORE ORDERED that:

1. This action is dismissed without prejudice.
2. Plaintiff's request for counsel ([Filing No. 10](#)) is denied.
3. The court will enter judgment by separate document.

Dated this 18th day of May, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge